

REBUTTAL TESTIMONY
OF
JEFFREY HOAGG

TELECOMMUNICATIONS DIVISION
ILLINOIS COMMERCE COMMISSION

I.C.C. DOCKET NO. 00-0252/0335 CONSOLIDATED

January 11, 2001

1 **Q. Please state your name, title and business address.**

2
3 A. My name is Jeffrey H. Hoagg. I am employed by the Illinois
4 Commerce Commission as Director of Policy in the Telecommunications
5 Division. My business address is 527 East Capitol Avenue, Springfield,
6 Illinois.

7 **Q. Are you the same Jeffrey Hoagg that previously filed testimony in this**
8 **proceeding?**

9 A. Yes.

10 **Q. What is the purpose of your rebuttal testimony?**

11 A. The purpose of this rebuttal testimony primarily is to respond to certain
12 assertions made in the rebuttal testimony of Ameritech Illinois witnesses
13 Gebhardt and O'Brien. I also respond to one incorrect statement contained
14 in Mr. Gebhardt's rebuttal testimony under his heading "Just and Reasonable
15 Rates."

16 **SERVICE QUALITY**

17

18 **Q. Ameritech witness O'Brien objects to Staff's proposed benchmarks**
19 **for new service quality measures. He contends that because "they**
20 **do not approximate either established levels of performance or the**
21 **levels required by existing Commission rules.... they are inconsistent**
22 **with the statutory goal of maintaining, rather than improving service**

23 **quality.” (AI Exhibit No. 3.1 at 5). Do you agree with Mr. O’Brien’s**
24 **analysis?**

25
26 A. No. Section 13-506.1(b)¹ of the PUA does not preclude the Commission
27 from establishing service quality benchmarks for companies under
28 alternative regulation designed to improve, rather than simply maintain,
29 service quality levels. Such benchmarks would not be “inconsistent” with
30 statutory goals since Section 13-506.1(b) sets a “floor” - not a “ceiling” - for
31 service quality under alternative regulation. It requires that service quality
32 under alternative regulation should at a minimum be maintained.

33
34 **Q. What does Section 13-506.1(b) (6) of the Public Utilities Act**
35 **specifically require concerning alternative regulation and service**
36 **quality?**

37
38 A. The PUA requirement is, in relevant part, as follows:

39 “The Commission may approve the plan or modify the plan and
40 authorize its implementation only if it finds, after notice and hearing,
41 that the plan or modified plan at a minimum;

42 ...

43 (6) will maintain the quality and availability of
44 telecommunications services [emphasis added].”

45
46 The statute requires the Commission to find that service quality will, at a
47 minimum, be maintained under alternative regulation. It does not preclude,

¹ 220 ILCS 5/13-506.1(b)

48 prevent or discourage the Commission from seeking improvement of service
49 quality as a condition for approval of an alternative regulation plan.
50

51 **Q. The Commission did not seek improved levels of service quality from**
52 **Ameritech Illinois when alternative regulation was approved initially in**
53 **1994. In your opinion, why not?**

54
55 A. Ameritech's service quality was not a significant issue at the time of the
56 Commission's original alternative regulation order. Prior to Commission
57 approval of the initial alternative regulation plan, Ameritech Illinois had been
58 exceeding Commission service quality benchmarks in almost all categories.
59 With the exception of OOS> 24, the Commission adopted benchmarks
60 intended to ensure Ameritech would maintain its levels of service quality, or it
61 would be penalized.
62

63 **Q. Would it be appropriate for the Commission to pursue improvement**
64 **of AI's service quality levels as a condition for extension of alternative**
65 **regulation?**

66
67 A. Yes. The Commission is aware that under alternative regulation, AI has
68 greater incentives to allow degradation of service quality than it would under
69 rate of return regulation. Setting benchmarks intended to improve service

quality levels could be an effective method of counteracting these incentives inherent in alternative regulation.

Under the statute, and under Commission regulations and policy, Ameritech Illinois is not entitled to an extension of alternative regulation in the current proceeding. As Ameritech itself has recognized elsewhere, alternative regulation is a regulatory bargain or compact between regulators and the company. It would be within the Commission's discretion and entirely appropriate for it to seek service quality improvements as a condition for extension of alternative regulation. Ameritech's service quality performance has deteriorated during the period the alternative regulation plan has been in effect, compared to its performance the period preceding Commission approval of the initial alternative regulation plan.

Q Mr. Gebhardt contends that Section 13-506.1 of the Act “does not impose an absolute duty on the company to maintain service quality” (AI Exhibit No. 1.3 at 16). Do you agree?

Yes, I do, to a limited degree. Section 13-506.1 actually imposes no duty upon Ameritech to maintain service quality. However, if Ameritech wishes to continue to be regulated under an alternative regulation plan, it has the burden of demonstrating to the Commission that the plan will at least

maintain service quality. If Ameritech does not do so, the Commission cannot find that the plan should be implemented. Under Section 13-506.1 the Commission must find that service quality and availability will at a minimum be maintained, or it cannot approve an alternative regulation plan (or modified plan), or authorize the implementation of alternative regulation. Consequently, Ameritech must show that service quality will at least be maintained if the Commission is to extend any form of alternative regulation for Ameritech.

Q. Mr. Gebhardt argues that the cause (or causes) of any decline in AI's service quality under the alternative regulation plan are highly relevant to this proceeding. He believes that the purpose of this proceeding is to "evaluate how well the plan functioned over its first five years", and in that context it is "highly relevant" whether any service quality decline is due to "unrelated circumstances". Do you agree with his analysis?

A. I agree with Mr. Gebhardt's assessment in one respect only. The causes of AI's service quality deterioration under the current alternative regulation plan are relevant to the Commission's deliberations concerning whether AI's service quality would be maintained under any extension of alternative regulation. The Commission will make this determination based on the evidence in this proceeding, and the causes of past service quality

114 performance are properly considered in those deliberations. Beyond this, I
115 do not believe that the causes of service quality declines under the current
116 plan are relevant.

117

118 To illustrate: suppose, for example, the Commission determined based on
119 the evidence that AI's recent service quality troubles were caused by Acts of
120 God not likely to be repeated under an extension of the plan. It would then
121 seem likely the Commission would conclude that service quality could be
122 maintained under an extension of alternative regulation. Suppose, however,
123 the Commission's examination of the causes of AI's recent service quality
124 declines led it to conclude that the deterioration in service quality was
125 systemic or inherently associated with alternative regulation (and thus could
126 be expected to continue). The Commission then could not be confident that
127 extension of the plan would meet the minimal statutory requirement that
128 service quality and availability be maintained under alternative regulation.

129

130 **Q. In what regard are the cause (or causes) of any decline in AI's service**
131 **quality under the current alternative regulation plan not relevant in**
132 **this proceeding?**

133

134 **A.** If the Commission cannot determine, based on the evidence in this
135 proceeding, that service quality will at least be maintained under any

modification of the current plan, then it should not extend alternative regulation for AI. This holds regardless of the reasons for such a Commission determination. It would, for example, be totally irrelevant that service quality might be likely to erode under rate of return regulation as well as under alternative regulation (although I do not suggest that this hypothetical would in fact result).

JUST AND REASONABLE RATES

Q. On page 22 of his rebuttal testimony (AI Exhibit No. 1.3), Mr. Gebhardt asserts that no party to this proceeding debated or refuted the earnings analysis presented in his supplemental direct testimony (which is based on a separation of costs, revenues and rate base into competitive and noncompetitive categories). Is this assertion correct?

A. This assertion is incorrect, and may simply reflect an oversight on Mr. Gebhardt's part. Staff witness Marshall's direct testimony clearly identified several major flaws that render Mr. Gebhardt's earnings analysis valueless in this proceeding. As Ms. Marshall points out, an underlying problem with Mr. Gebhardt's analysis is that any allocation of embedded costs into noncompetitive and competitive categories is inherently arbitrary. There is no accepted methodology to allocate these costs into these categories. The

158 methodology utilized by Mr. Gebhardt to do so is open to criticism, and has
159 not been authorized or approved by the Commission for the use proposed by
160 Mr. Gebhardt (i.e., to support his argument that earnings on noncompetitive
161 services are low and thus there is no justification for revisiting the price
162 index).

163 **Q. Does this conclude your testimony?**

164 A. Yes.